

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RUBEN FIGUEROA,

Plaintiff,

v.

KEN CLARK, et al.,

Defendants.

Case No. 1:22-cv-01200-EPG (PC)

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
BE DISMISSED, WITHOUT PREJUDICE,
AS DUPLICATIVE OF CASES 1:22-CV-
00900 AND 1:22-CV-00916

OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN DAYS

ORDER DIRECTING CLERK TO ASSIGN
DISTRICT JUDGE

Ruben Figueroa (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983. As Plaintiff filed two other cases that include the same claims and defendants as this action, the Court will recommend that this action be dismissed, without prejudice, as duplicative of Case No. 1:22-cv-00900 and Case No. 1:22-cv-00916.

“Plaintiffs generally have ‘no right to maintain two separate actions involving the same subject matter at the same time in the same court and against the same defendant.’” Adams v. California Dep’t of Health Servs., 487 F.3d 684, 688 (9th Cir. 2007) (quoting Walton v. Eaton Corp., 563 F.2d 66, 70 (3d Cir. 1977)), overruled on other grounds by Taylor v. Sturgell, 553 U.S. 880, 904 (2008).

1 “To determine whether a suit is duplicative, we borrow from the test for claim
 2 preclusion.” Adams, 497 F.3d at 688. “[T]he true test of the sufficiency of a plea of ‘other
 3 suit pending’ in another forum [i]s the legal efficacy of the first suit, when finally disposed of,
 4 as ‘the thing adjudged,’ regarding the matters at issue in the second suit.”” Id. (second
 5 alteration in original) (quoting The Haytian Republic, 154 U.S. 118, 124 (1894)). “Thus, in
 6 assessing whether the second action is duplicative of the first, we examine whether the causes
 7 of action and relief sought, as well as the parties … to the action, are the same.” Adams, 497
 8 F.3d at 689. See also Serlin v. Arthur Anderson & Co., 3 F.3d 221, 223 (7th Cir. 1993) (“[A]
 9 suit is duplicative if the claims, parties, and available relief do not significantly differ between
 10 the two actions.”) (citation and internal quotation marks omitted).

11 “After weighing the equities of the case, the district court may exercise its discretion to
 12 dismiss a duplicative later-filed action, to stay that action pending resolution of the previously
 13 filed action, to enjoin the parties from proceeding with it, or to consolidate both actions.”
 14 Adams, 497 F.3d at 688.

15 Plaintiff filed the complaint commencing this action in the United States District Court
 16 for the Southern District of California (“Southern District”) on July 14, 2022. The case was
 17 transferred to the United States District Court for the Eastern District of California (“Eastern
 18 District”) on September 22, 2022. (ECF No. 5). No action was taken in this case prior to the
 19 transfer.

20 On July 20, 2022, Plaintiff filed a complaint that is identical to the complaint in this
 21 case. Figueroa v. Clark (“Figueroa II”), E.D. CA, Case No. 1:22-cv-00900, ECF No. 1. On
 22 July 25, 2022, Plaintiff filed another complaint, which is almost identical to the complaint in
 23 this case. Figueroa v. Clark (“Figueroa III”), E.D. CA, Case No. 1:22-cv-00916, ECF No. 1.
 24 On August 25, 2022, the Court in Figueroa III screened Plaintiff’s complaint, found that it
 25 failed to state any cognizable claims for relief, and granted Plaintiff leave to amend. Id. at ECF
 26 No. 5.

27 All of the defendants and claims in this case are included in Figueroa II and Figueroa
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1 III.¹ In all three complaints, Plaintiff generally alleges that Defendants violated his Eighth and
2 Fourteenth Amendment rights by exposing him to toxic chemicals and dangerous working
3 conditions at the dairy processing facility at California State Prison, Corcoran, and by failing to
4 provide him with medical care.

5 Indeed, Plaintiff appears to admit that the claims in this case are identical to the claims
6 in Figueroa III. In his complaint in Figueroa III, Plaintiff refers to this case and notes that it
7 was “[f]iled at wrong Court instead Eastern District Court.” Figueroa III, ECF No. 1, p. 29
8 (errors in original).

9 As all of the claims and defendants included in this case are included in Plaintiff’s
10 complaints in Figueroa II and Figueroa III, as the Southern District took no action on the
11 complaint in this action, as the Eastern District did not receive this action until after Plaintiff
12 filed Figueroa II and Figueroa III, and as Plaintiff’s complaint was screened in Figueroa III
13 before the Eastern District received this action, the Court will recommend that this action be
14 dismissed as duplicative of Figueroa II and Figueroa III.

15 Accordingly, it is HEREBY RECOMMENDED that

- 16 1. This action be dismissed, without prejudice, as duplicative of Figueroa II and
17 Figueroa III;
- 18 2. Plaintiff’s application to proceed *in forma pauperis* (ECF No. 2) be denied as
19 moot; and
- 20 3. The Clerk of Court be directed to close this case.

21 These findings and recommendations will be submitted to the United States district
22 judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
23 fourteen (14) days after being served with these findings and recommendations, Plaintiff may
24 file written objections with the Court. The document should be captioned “Objections to
25 Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file
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27 ¹ Plaintiff added an additional defendant and allegations related to that defendant in Figueroa III, but as
28 all the claims and defendants included in this case are also included in Figueroa III, this case is duplicative of
Figueroa III.

1 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.
2 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
3 (9th Cir. 1991)).

4 Additionally, IT IS ORDERED that the Clerk of Court is directed to assign a district
5 judge to this case.

6 IT IS SO ORDERED.
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8 Dated: September 23, 2022

9 /s/ *Eric P. Groje*
10 UNITED STATES MAGISTRATE JUDGE
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